

810-6-1-.60 Opticians, Optometrists, and Ophthalmologists.

(1) The dispensing or transferring of ophthalmic materials, including lenses, frames, eyeglasses, contact lenses, and other therapeutic optic devices, by opticians, ~~or~~ optometrists, or ophthalmologists are retail sales subject to sales tax. Such sales are taxable when sold to the ultimate consumer regardless of whether the optician, ~~or~~ optometrist or ophthalmologist manufactured the materials for sale or purchased them for resale. ~~The measure of tax on these sales shall be the gross receipts or gross proceeds therefrom without any deduction for the cost of the property sold, the cost of materials used, labor, service cost, or any other expenses whatsoever.~~ (Section 40-23-1(d))

(2) When a licensed optometrist or ophthalmologist exercises professional skills in examining the eyes of a patient and prescribes eyeglasses, contact lenses, or some other ophthalmic material which the optometrist or ophthalmologist dispenses or transfers to that patient, the optometrist or ophthalmologist may separately state the charges for the ophthalmic materials and the charges for the professional services, including dispensing fees or fitting fees, on the invoice to the patient and collect sales tax only on the separately stated charges for the ophthalmic materials which were dispensed or transferred to the patient, provided the optometrist or ophthalmologist also maintains records which clearly reflect the separate sources of receipts. In the absence of separately stated charges for materials and professional services on the invoices to patients and the maintenance of documentation in the records of the business, the tax shall apply to the total amount billed to the patient. (Section 40-23-1(d))

~~(3) The dispensing or transferring of ophthalmic materials including lenses, frames, eyeglasses, contact lenses, and other therapeutic optic devices to patients by licensed ophthalmologists as a part of their professional service is not subject to sales tax. Such licensed ophthalmologists are considered the ultimate consumers of the ophthalmic materials. The sale of the ophthalmic materials to licensed ophthalmologists by a supplier thereof is a retail sale subject to sales tax and the supplier is responsible for collecting the sales tax from the licensed ophthalmologist. The term "supplier" shall include but not be limited to optical laboratories, ophthalmic material wholesalers, or anyone selling ophthalmic materials to ophthalmologists. When the ophthalmic materials are purchased by a consumer covered by a third party benefit plan, including Medicare, the sales tax shall be applicable to the amount that the ophthalmologist, optometrist, or optician is reimbursed by the third party benefit plan plus the amount that the consumer pays to the ophthalmologist, optometrist, or optician at the time of the sale.~~ (Section 40-23-1(d))

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Authority: Sections 40-2A-7(a)(5), 40-23-1(d) and 40-23-31, Code of Alabama 1975

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